

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL VERNON CRITCHFIELD, *et al.*,

Plaintiff,

v.

COUNTY OF BUFFALO, *et al.*,

Defendants.

ORDER

14-cv-594-wmc

Plaintiffs Michael Vernon Critchfield, Julie Ann Critchfield, Joseph Michael Critchfield, and Ryan Thomas Bechard have filed this lawsuit against Buffalo County, a court commissioner, an investigator, two sheriff's deputies, two social workers and several other law enforcement agents, alleging unlawful search and seizure, among other things. Plaintiffs requested leave to proceed with these claims *in forma pauperis* but failed to provide any financial information in support of that application as required by 28 U.S.C. § 1915(a). On September 11, 2014, the court directed plaintiffs to remedy this defect by submitting affidavits of indigency in support of their request for leave to proceed *in forma pauperis*. In response, plaintiffs have now filed a request to "cancel" this case.

The court construes plaintiffs' request as a motion for voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A), which allows dismissal upon the plaintiff's request before the opposing party serves either an answer or a motion for summary judgment. Because no responsive pleading has been requested or received in this case, the motion will be granted and the case will be dismissed without prejudice. *See Smith v. Potter*, 513 F.3d 781, 782-83 (7th Cir. 2008) (observing that a plaintiff's motion for voluntary dismissal filed before the opposing party serves either an answer or dispositive motion automatically effects dismissal of the case); *see also Nelson v. Napolitano*, 657 F.3d 586, 587-88 (7th Cir. 2011) (discussing the effect of a voluntary dismissal under Rule 41(a)) (collecting cases).

ORDER

IT IS ORDERED that:

1. The plaintiffs' motion for voluntary dismissal (Dkt. #14) is GRANTED.
2. The complaint is DISMISSED without prejudice pursuant to Fed. R. Civ. P. 41(a).

Entered this 17th day of September, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge